

Consent Agenda Item 1.b

November 16-17, 2022 Board Meeting

Case No. 22CW3077 (Water Division 5); Spring Falls Ranch, LLC

Summary of Water Court Application

Application for Conditional Underground Water Right, Conditional Surface Water Right, Conditional Storage Rights, Approval of Plan for Augmentation, and Conditional Appropriative Right of Exchange.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in September 2022 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 5 in the Roaring Fork watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-1954 (1973)	Lime Creek	10,000 ft elevation	confl Fryingpan River	1.5 (10/1 - 3/31) 3 (4/1 - 9/30)	07/12/1973
W-1955 (1973)	Fryingpan River	confl NF Fryingpan River	confl Ruedi Reservoir	30 (10/1 - 3/31) 200 (6/1 - 6/30) 150 (5/1 - 5/31) 100 (4/1 - 4/30) 100 (7/1 - 7/31) 75 (8/1 - 8/31) 65 (9/1 - 9/30)	07/12/1973
W-1945 (1973)	Fryingpan River	confl Rocky Fork Creek	confl Roaring Fork River	39 (11/1 - 4/30) 110 (5/1 - 10/31)	07/12/1973
85CW0639	Roaring Fork River	confl Fryingpan River	confl Crystal River	75 (10/1 - 3/31) 145 (4/1 - 9/30)	11/08/1985

Potential for Injury

- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- Some of the water rights are claimed with senior appropriation dates. The CWCB's instream flow water rights might be subject to these water rights under section 37-92-102(3)(b), C.R.S., if the claimed pre-existing uses are sufficiently demonstrated.

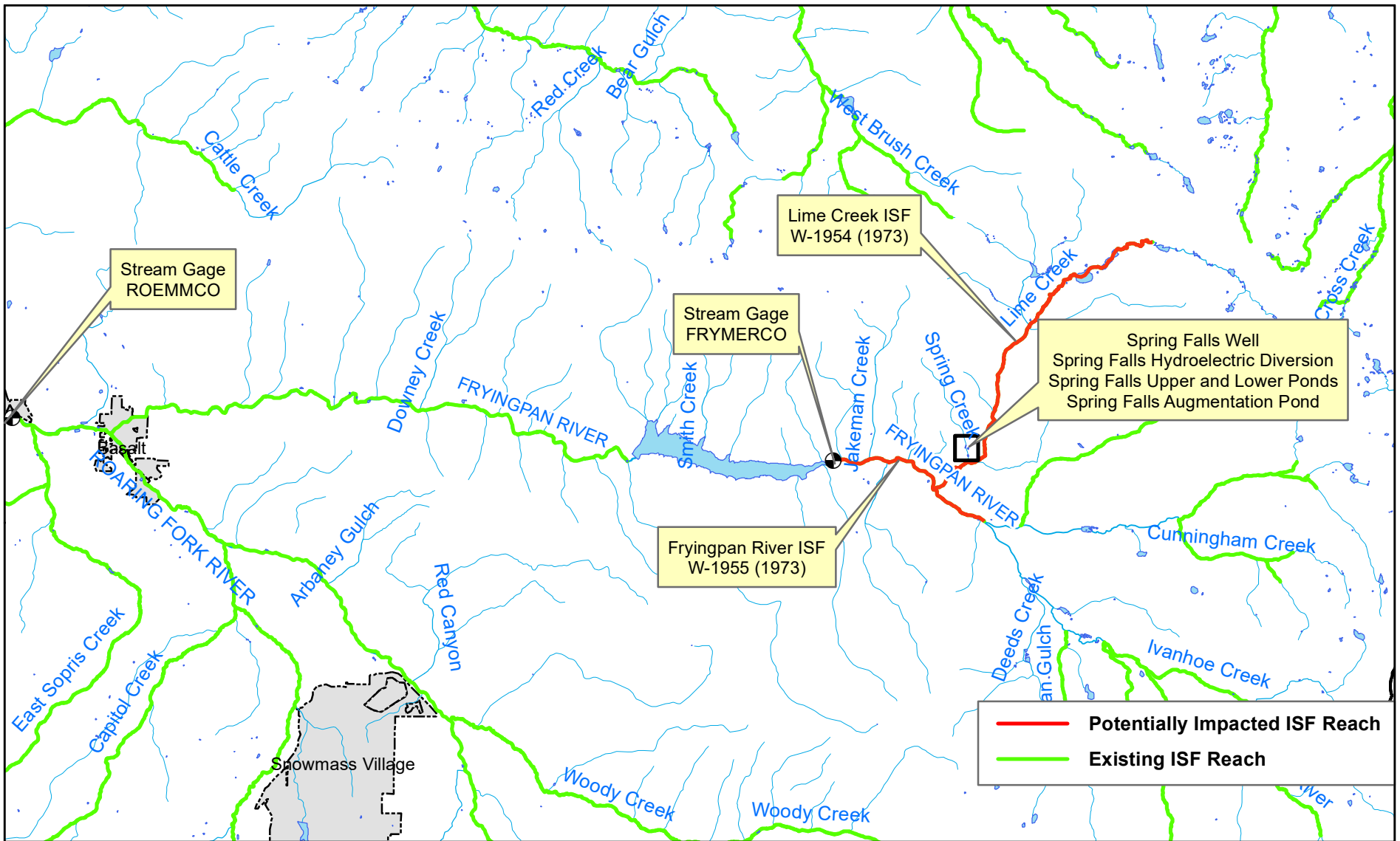
- The proposed hydropower water right could injure the CWCB's instream flow water right on Lime Creek if it is fully depletive to a segment of the intervening instream flow reach. More information is necessary to determine where water diverted for this use returns to the stream.

Other Objectors

Statements of Opposition were also filed by Southeastern Colorado Water Conservancy District and, The City of Aurora, acting by and through its Utility Enterprise.

Attorney Representing CWCB

Marc D. Sarmiento, Assistant Attorney General, is assigned to this case and can be contacted at marc.sarmiento@coag.gov, or 720-508-6429.

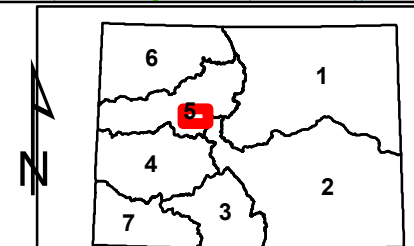


COLORADO
Colorado Water Conservation Board

Department of Natural Resources

November 16-17, 2022 CWCB Board Meeting
 Consent Agenda Item 1b: Statement of Opposition
 Case No. 22CW3077 (Water Division 5)
 Spring Falls Ranch LLC

0 2 4 8 Miles



DIVISION 5 WATER COURT- JULY 2022 RESUME

5. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JULY 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

22CW3077 EAGLE COUNTY, SPRING CREEK, TRIBUTARY TO LIME CREEK, FRYINGPAN RIVER, ROARING FORK RIVER, AND COLORADO RIVER. Spring Falls LLC c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court, Ste 200 Basalt, 81621, (970) 922-2122. Application for conditional underground water right, conditional surface water right, conditional storage rights, approval of plan for augmentation, and conditional appropriative right of exchange. Introduction: Applicant owns approximately 160 acres upstream of Ruedi Reservoir and is developing its property for purposes of a children's education and recreation camp and related uses. This application seeks to confirm the water rights and plan for augmentation necessary for operation of the camp. The subject water rights are components of an integrated water supply system. First claim: Name of structure: Spring Falls Well. Location: NW1/4SE1/4 of Sec 8 T8S R83W 6th PM at a point UTM NAD83 Z13: 4358944.1m N, 355272.9m E. Source: Alluvium of Spring Creek, trib to Lime Creek, trib to the Fryingpan River, trib to the Roaring Fork River, trib to the Colorado River. Depth: Approx. 150 ft. Approp. date: 07/27/2022. How approp. was initiated: Formation of intent to appropriate water coupled with the filing of the Water Court application. Amount: 45 gpm (0.10 cfs) conditional up to 6.132 af annually. Uses: Commercial and domestic. Second claim: Name of structure: Spring Falls Hydroelectric Diversion. Location: NW1/4SE1/4 of Sec 8 T8S R83W 6th PM at a point UTM NAD83 Z13: 4358893.1m N, 355190.2m E. Source: Spring Creek, trib to Lime Creek, trib to the Fryingpan River, trib to the Roaring Fork River, trib to the Colorado River. Approp. date: 07/27/2022. How approp. was initiated: Formation of intent to appropriate water coupled with the filing of the Water Court application. Amount: 0.25 cfs conditional. Uses: Generation of hydroelectric power and fire protection. Third claim: Name of structure: Spring Falls Upper Pond. Location: outlet located in NW1/4SE1/4 of Sec 8 T8S R83W 6 PM at a point UTM NAD83 Z13: 4358875.0m N, 355298.0m E. Source: Big Spring. Location: In NE1/4SE1/4 of Sec 8, T8S, R83W 6th PM at a point UTM NAD83 Zone 13: 4358943.0m N, 355384.5m E. Source: Trib to Spring Creek, trib to Lime Creek, trib to the Fryingpan River, trib to the Roaring Fork River, trib to the Colorado River. Amount: 3.9 cfs. Approp. date: 12/31/1938. How approp. was initiated: Formation of intent to appropriate water coupled with the construction of ponds. Amount. 2.60 af, conditional with the right to fill and refill continuously. Uses: Aesthetics, recreation, piscatorial, wildlife watering, education, fire protection, and other uses associated with a children's education and recreation camp. The pond may also be utilized as an irrigation control structure for the Applicant's Fellow Ditch rights. Surface Area: 0.395 acres. Dam Height: Less than 10 ft. Dam Length: Approx. 280 ft. Capacity: 2.60 af. Active Capacity: 2.60 af. Dead Storage: 0 af. Fourth claim: Name of structure: Spring Falls Lower Pond. Location: outlet located in SW1/4SE1/4 of Sec 8 T8S R83W 6 PM at a point UTM NAD83 Z13: 4358622.3m N, 355300.3m E. Source: Big Spring described in third claim; Spring Falls Ditch. Location: In the NW1/4SE1/4 of Sec 8 T8S R83W 6th PM at a point UTM NAD83 Zone 13: 4358727.2m N, 355220.2m E. Source: Trib to Spring Creek, trib to Lime Creek, trib to the Fryingpan River, trib to the Roaring Fork River, trib to the Colorado River. Amount: 1.0 cfs. Approp. date: 12/31/1964. How approp. was initiated: Formation of intent to appropriate water coupled with the construction of ponds. Storage Amount: 1.20 af, conditional, with the right to fill and refill continuously. Uses: Aesthetics, recreation, piscatorial, wildlife propagation, education, fire protection, augmentation, and other uses associated with a children's education and recreation camp. The pond may also be utilized as an irrigation control structure for the Applicant's Fellow Ditch water rights. Surface Area: 0.230 acres. Dam Height: Less than 10 ft. Dam Length: Approx. 300 ft. Capacity: 1.20 af. Active capacity: 1.20 af. Dead storage: 0 af. Fifth claim: Name of Structure: Spring Falls Augmentation Pond. Location: outlet is located in SW1/4SE1/4 of Sec 8 T8S R83W 6 PM at a point UTM NAD83 Z13: 4358577.7m N, 355299.7m E. Source: Springs Falls Ditch and Big Spring described in fourth claim. Approp. date: 12/31/1964. How approp. was initiated: Formation of intent to appropriate water coupled with the construction of ponds. Storage Amount. 1.35 af, conditional, with the right to fill and refill continuously. Uses: Aesthetics, recreation, piscatorial, wildlife propagation, education, fire protection, augmentation, and other uses associated with a children's education and recreation camp. Surface Area. 0.25 acres. Dam Height. Less than 10 ft. Dam Length: Approx. 250 ft. Capacity: 1.35 af. Active Capacity: 1.35 af. Dead Storage: 0 af. Sixth claim: plan of augmentation. Augmented structures: Spring Falls Well described in first claim, Spring Falls Upper Pond described in third claim, Spring Falls Lower Pond described in fourth claim, Spring Falls Augmentation Pond described in fifth claim. Augmentation Water: Basalt Water Conservancy District ("BWCD") augmentation supplies in Ruedi Reservoir, Green Mountain Reservoir, Robinson Ditch and Troy and Edith Ditches available pursuant to an allotment contract; Spring Falls Lower Pond described in fourth claim; Spring Falls Augmentation Pond described in fifth claim. Statement of plan for augmentation: The plan uses water available under BWCD water allotment contract to be used directly and by exchange to address senior calls downstream of the augmented

structures and to the extent that downstream calls cannot be met by exchange, replacement water from Spring Falls Augmentation Pond and Spring Falls Lower Pond. Downstream Colorado River Call: BWCD contract will cover commercial/domestic and evaporation depletions whenever a call occurs on the Colorado or Roaring Fork rivers from a senior water right having a point of diversion below the confluence of the Roaring Fork River and Fryingpan River. During the call water will be released from BWCD water rights in an amount sufficient to offset the depletions. BWCD contract will also include the ability to fill Spring Falls Augmentation Pond in May and during a potential Ruedi Reservoir storage call and partially refill the augmentation pond in October or November at a time when the local call is off and when the downstream Colorado River call is still in effect. Local Call: Typically there has not been water right calls originating from water users located along Lime Creek, the Fryingpan River, or the Roaring Fork River. During a local call, Spring Falls Upper Pond will be lowered commensurate with the evaporation rate until the water surface area is reduced to 0.229 acres at which point Upper Falls Upper Pond does not need to be augmented for replacement of evaporation with respect to CWCB's ISF water rights pursuant to CRS 37-92-102(3)(b) because ponds with surface area totaling 0.229 acres were in place and being used prior to CWCB ISF approp. on Lime Creek and the Fryingpan River and this pond can be lowered commensurate with evaporation until the surface area reaches 0.229 surface acres. Alternatively, Spring Falls Lower Pond and/or Spring Falls Augmentation Pond can augment the enlarged surface area of Spring Falls Upper Pond. Pursuant to CRS. 37-92-102(3)(b), Spring Falls Lower Pond does not need to be augmented for replacement of evaporation with respect to CWCB's ISF water rights because ponds totaling 0.230 acres were in place and being used prior to CWCB's ISF approp. on Lime Creek and the Fryingpan River. To the extent that Spring Falls Lower Pond is constructed to less than 0.230 acres, the remaining surface area will be applied to the Spring Falls Augmentation Pond with respect to the CWCB ISF approp. The primary source of augmentation during local call is the Spring Falls Augmentation Pond. Seventh claim: Name of structure: Spring Falls Exchange. Downstream termini: Lower Terminus 1: confluence of the Roaring Fork and Colorado Rivers in the SE1/4NW1/4 of Sec 9 T6S R89W 6th PM at a point approx. 2200 feet from the N Sec line and 2350 ft from the W Sec line (UTM NAD83 Zone 13: 4380368.3m N, 299744.3m E). Lower Terminus 2: Ruedi Reservoir outlet in the NW1/4NW1/4 of Sec 18 T8 S R84W 6th PM at a point 220 ft from the N Sec line and 140 ft from the W Sec line (UTM NAD83 Zone 13: 4358716.9m N, 342981.0m E). Lower Terminus 3: point of diversion of Robinson Ditch located on the N bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec 11 T8S R87W 6th PM (UTM NAD83 Zone 13: 4359863m N, 321622m E). Upstream termini: Big Spring described in third claim. Source: BWCD augmentation supplies described in sixth claim. Approp. Date: 07/27/2022. How approp. was initiated: Formation of intent to appropriate water coupled with the filing of the Water Court application. Max Exchange Rate: 0.25 cfs. Use: Augmentation. Max. annual volume: 4.4 af. Remarks: The exchange rate is based on the max. fill rates of the Spring Falls Augmentation Pond during a fill in May plus depletions. Landowners: Applicant. (12 pages, 4 exhibits).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of SEPTEMBER 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.